

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILFREDO VARGAS,

Plaintiff,

- against -

JET PERU-COURIER CORP.; JET PERU MONEY
REMITTERS INC.; LEONOR F. AGUILAR; and
VICTORIA ESPANA,

Defendants.

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**ORDER ADOPTING REPORT
AND RECOMMENDATION**
15-CV-6859 (RRM) (PK)

ROSLYNN R. MAUSKOPF, United States District Judge.

Wilfredo Vargas brings this action against the defendants, alleging violations of the Fair Labor Standards Act and New York Labor Law. The defendants are two corporations, Jet Peru-Courier Corp. and Jet Peru Money Remitters Inc., and Leonor Aguilar, the owner, President, and Chief Executive Officer of the corporate defendants, as well as Victoria Espana, an officer, director, supervisor, and managing agent of the corporate defendants. After filing their answer, the defendants have appeared only intermittently. Nearly two years after this case was filed, Vargas has still not obtained the necessary discovery from the defendants, and the case has thus stalled. As a result, Vargas moved to strike defendants' answer and moved for default judgment. The defendants then cross-moved to stay the action in light of the fact that Aguilar is "ill with cancer." (Defs.' Cross-Motion (Doc. No. 35) at 1.)¹ This court referred these motions to Magistrate Judge the Honorable Peggy Kuo for a report and recommendation ("R&R").

In her R&R, Magistrate Judge Kuo recommended granting Vargas's motions and denying the defendants' motion to stay. (R&R (Doc. No. 39).) Specifically, Judge Kuo recommended a finding that striking the defendants' answer and granting default judgment is an appropriate

¹ For ease of reference, citations to Court documents refer to Electronic Case Filing ("ECF") pagination.

sanction under Federal Rule of Civil Procedure (“Rule”) 37. (R&R at 9.) She reminded the parties that, pursuant to Rule 72, any objection to the R&R must be filed within fourteen days. (R&R at 22.) The time to do so has expired.

Pursuant to 28 U.S.C. § 636(b) and Rule 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, the defendants’ motion to stay the action is denied, and Vargas’s motion to strike the answer and enter default judgment is granted as against all defendants, jointly and severally. Vargas is awarded damages in the total sum of \$99,324.02, comprised of:

- (i) \$49,301.31 in unpaid minimum and overtime wages;
- (ii) \$5,961 in unpaid spread-of-hours premium;
- (iii) \$39,061.71 in liquidated damages; and
- (iv) \$5,000 in statutory damages for wage statement violations.

Vargas is also awarded \$25,815 in attorney’s fees.

The Clerk of Court is directed to enter judgment pursuant to this Order and to close this case. Vargas is ordered to mail a copy of this Order and the accompanying judgment to Victoria Espana, and to file proof of service within one week of this Order.

SO ORDERED.

Dated: Brooklyn, New York
March 28, 2018

Roslyn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge

